

Senate File 2043 - Introduced

SENATE FILE _____
BY HANCOCK

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to consuming and possessing alcohol, and
2 providing penalties.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
4 TLSB 5046XS 82
5 jm/nh/8

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1 1 Section 1. NEW SECTION. 123.47A REFUSAL TO SUBMIT TO
1 2 TEST == NOTIFICATION == CIVIL FINE.
1 3 1. A peace officer who has reasonable grounds to believe a
1 4 person under legal age has violated section 123.47 may request
1 5 that the person under legal age provide a sample of the
1 6 person's breath for a preliminary screening test using a
1 7 device approved by the commissioner of public safety.
1 8 2. If the person under legal age is eighteen years of age
1 9 or older and refuses the request, the person shall be issued a
1 10 citation and is subject to a civil penalty pursuant to section
1 11 805.8C, subsection 7, paragraph "b".
1 12 3. If the person under legal age is under eighteen years
1 13 of age and refuses the request, the person shall be issued a
1 14 citation and is subject to a civil penalty pursuant to section
1 15 805.8C, subsection 7, paragraph "c".
1 16 4. A person under legal age who is under eighteen years of
1 17 age shall not be referred to juvenile court based solely upon
1 18 the refusal of the request and is exempt from the jurisdiction
1 19 of chapter 232.
1 20 5. A peace officer issuing a citation to a person under
1 21 the age of eighteen for refusing a request shall notify the
1 22 person's custodial parent or legal guardian of the refusal,
1 23 unless the officer has reasonable grounds to believe that such
1 24 notification is not in the best interests of the person or
1 25 will endanger that person.
1 26 6. The results of the preliminary screening test or
1 27 refusal to submit to such a test shall be admissible in any
1 28 civil proceeding or criminal prosecution under section 123.47.
1 29 The results of the preliminary screening test shall be
1 30 evidence from which the court or jury may infer that the
1 31 person was in possession of alcohol in violation of section
1 32 123.47.
1 33 7. A person who has been requested to submit to a
1 34 preliminary screening test under this section shall be advised
1 35 by a peace officer of the following:
2 1 a. The test results or a refusal to submit to such a test
2 2 may be used as evidence in any civil, criminal, or juvenile
2 3 proceeding.
2 4 b. Refusal of a test may also result in the assessment of
2 5 a civil penalty.
2 6 Sec. 2. Section 321J.2B, Code 2007, is amended by adding
2 7 the following new subsection:
2 8 NEW SUBSECTION. 3. The peace officer shall also make a
2 9 reasonable effort to identify any person under the age of
2 10 eighteen who is a passenger in a motor vehicle operated by a
2 11 person who violates section 321J.2 or 321J.2A, and shall make
2 12 a reasonable attempt to notify the passenger's custodial
2 13 parent or legal guardian of the operator's violation, unless
2 14 the officer has reasonable grounds to believe that
2 15 notification is not in the best interests of the passenger or
2 16 will endanger the passenger.
2 17 Sec. 3. Section 321J.5, subsection 2, Code 2007, is
2 18 amended to read as follows:
2 19 2. The results of this preliminary screening test may be
2 20 used for the purpose of deciding whether an arrest should be

2 21 made or whether to request a chemical test authorized in this
2 22 chapter, but shall not be used in any ~~court action proceeding~~
2 23 ~~under this chapter~~ except to prove that a chemical test was
2 24 properly requested of a person pursuant to this chapter.

2 25 Sec. 4. Section 321J.5, Code 2007, is amended by adding
2 26 the following new subsection:

2 27 NEW SUBSECTION. 3. This section shall not be construed to
2 28 prohibit or limit the use of the results of a preliminary
2 29 screening test or the refusal of such test in any proceeding
2 30 conducted pursuant to section 123.46, 123.47, 123.47A, or
2 31 123.49.

2 32 Sec. 5. Section 462A.14A, subsection 2, paragraph b, Code
2 33 Supplement 2007, is amended to read as follows:

2 34 b. The results of this preliminary screening test may be
2 35 used for the purpose of deciding whether an arrest should be
3 1 made or whether to request a chemical test authorized in this
3 2 chapter, but shall not be used in any ~~court action proceeding~~
3 3 ~~under this chapter~~ except to prove that a chemical test was
3 4 properly requested of a person pursuant to this section. ~~This~~
3 5 ~~paragraph shall not be construed to prohibit or limit the use~~
3 6 ~~of the results of a preliminary screening test in any~~
3 7 ~~proceeding conducted pursuant to section 123.46, 123.47,~~
3 8 ~~123.47A, or 123.49.~~

3 9 Sec. 6. Section 602.8105, Code Supplement 2007, is amended
3 10 by adding the following new subsection:

3 11 NEW SUBSECTION. 5. The clerk of the district court shall
3 12 collect a civil penalty assessed against a person for refusing
3 13 a preliminary screening test under section 123.47A. Any
3 14 moneys collected from the civil penalty shall be remitted to
3 15 the general fund of the jurisdiction that brought the
3 16 enforcement action.

3 17 Sec. 7. Section 805.8C, subsection 7, Code Supplement
3 18 2007, is amended to read as follows:

3 19 7. ALCOHOLIC BEVERAGE VIOLATIONS BY PERSONS UNDER LEGAL
3 20 AGE.

3 21 a. For first offense violations of section 123.47,
3 22 subsection 3, the scheduled fine is two hundred dollars.

3 23 b. ~~For violations of section 123.47A, subsection 2, the~~
3 24 ~~scheduled fine is one hundred dollars, and is a civil penalty,~~
3 25 ~~the criminal penalty surcharge under section 911.1 shall not~~
3 26 ~~be added to the penalty, and the court costs pursuant to~~
3 27 ~~section 805.9, subsection 6, shall not be imposed. If the~~
3 28 ~~civil penalty assessed for a violation of section 123.47A,~~
3 29 ~~subsection 2, is not paid in a timely manner, a citation shall~~
3 30 ~~be issued for the violation in the manner provided in section~~
3 31 ~~804.1. The complainant shall not be charged a filing fee.~~

3 32 c. ~~For violations of section 123.47A, subsection 3, the~~
3 33 ~~scheduled fine is twenty-five dollars, and is a civil penalty,~~
3 34 ~~the criminal penalty surcharge under section 911.1 shall not~~
3 35 ~~be added to the penalty, and the court costs pursuant to~~
4 1 ~~section 805.9, subsection 6, shall not be imposed. If the~~
4 2 ~~civil penalty assessed for a violation of section 123.47A is~~
4 3 ~~not paid in a timely manner, a citation shall be issued for~~
4 4 ~~the violation in the manner provided in section 804.1.~~
4 5 ~~However, a person under age eighteen shall not be detained in~~
4 6 ~~a secure facility for failure to pay the civil penalty. The~~
4 7 ~~complainant shall not be charged a filing fee.~~

4 8 EXPLANATION

4 9 This bill relates to the consumption and possession of
4 10 alcohol, and provides penalties.

4 11 The bill provides that a peace officer who has reasonable
4 12 grounds to believe a person under legal age has possessed
4 13 alcohol may request the person under legal age to submit a
4 14 sample of the person's breath for a preliminary screening test
4 15 to determine if the person possessed alcohol in violation of
4 16 Code section 123.47. The bill provides that the results of
4 17 the preliminary screening test or the refusal to submit to
4 18 such a test shall also be admissible in any civil, criminal,
4 19 or juvenile proceeding relating to the possession of alcohol.
4 20 Under the bill, if a person under legal age is 18 years of
4 21 age or older and refuses the request to submit a sample of the
4 22 person's breath, the person shall be issued a civil citation
4 23 with a fine of \$100. If the person under legal age is under
4 24 18 years of age and refuses the request to submit a sample of
4 25 the person's breath, the person shall be issued a civil
4 26 citation with a fine of \$25. An arrest warrant may be issued
4 27 in the same manner as under Code section 804.1 for a person 18
4 28 years of age or older and who fails to pay the civil fine
4 29 assessed under the bill.

4 30 The clerk of the district court shall collect any civil
4 31 penalty assessed pursuant to the bill and shall distribute the

4 32 moneys to the general fund of the jurisdiction that brought
4 33 the enforcement action.

4 34 The bill requires the peace officer issuing a civil
4 35 citation to a person under the age of 18 to notify the
5 1 person's custodial parent or legal guardian of the refusal,
5 2 unless the notification will endanger the person or is not in
5 3 the person's best interests.

5 4 The bill also provides that the results of the preliminary
5 5 screening test or the refusal of such a test is admissible in
5 6 any proceeding pursuant to Code sections 123.46 (consumption
5 7 or intoxication in public places), 123.47 (persons under legal
5 8 age), and 123.49 (miscellaneous prohibitions).

5 9 The bill also requires a peace officer to notify the
5 10 custodial parent or legal guardian of any person under the age
5 11 of 18 who is a passenger in a motor vehicle where an operator
5 12 under the legal age commits a violation of Code section 321J.2
5 13 (operating while intoxicated) or Code section 321J.2A (under
5 14 legal age operating .02), unless the notification will
5 15 endanger the person or it is not in the person's best
5 16 interests. Current law provides that a peace officer shall
5 17 notify the custodial parent or legal guardian of a person
5 18 under the age of 18 who violates Code section 321J.2 or
5 19 321J.2A, unless the notification will endanger the person or
5 20 it is not in the person's best interests.

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